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June 29, 2007

Darryl Boyd
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113-1905

Dear Mr. Boyd:

I am writing with comments on the Coyote Valley Specific Plan Draft EIR (March 2007) and specifically about the measures to mitigate impacts to burrowing owls (*Athene cunicularia*) and burrowing owl habitat. I submit these comments from a background working as a professional ornithologist and raptor biologist for 30 years and as the City of San Jose's wildlife biologist at San Jose International Airport where I have carried out a program of burrowing owl management and research for 17 years.

On page 300 it says impacts to nesting Western Burrowing Owls shall be mitigated by implementing Mitigation Measures BIO-10.7, BIO-10.8, and BIO 10.9. These measures involve installing fencing around development adjacent to aquatic habitat (BIO-10.7), building structures to facilitate wildlife dispersal under roads (BIO-10.8), and incorporating downcast lighting structures near California red-legged frog and foothill yellow-legged frog habitat (BIO-10.9). There is no realistic way that these measures would have any effects on burrowing owls let alone mitigate effects to nesting burrowing owls.

Mitigation Measure BIO-15.2 calls for *Active Relocation* as partial compensation for impacts to on-site burrowing owl habitat. Active Relocation is not a means to compensate for habitat impacts, but rather a way to avoid direct mortality of owls on sites to be developed. Active Relocation of burrowing owls is a controversial topic that is not viewed favorably by the California Department of Fish and Game. It has not consistently resulted in establishing nesting burrowing owls on relocation sites. Its only useful function is to remove resident burrowing owls from development so they are not killed.

Mitigation Measure BIO-15.4 is classified as *Avoidance* yet it describes the preservation and management of burrowing owl habitat in perpetuity. While in concept this measure sounds like a possible way to mitigate habitat loss, the measure does not specifically address the stated loss of 1,130 acres of burrowing owl in the DEIR. This measure is not *Avoidance* because there is no language that describes how the impacts will be avoided. This measure should be called compensation (CEQA Guidelines 15370(e)).

Mitigation Measures BIO-15.5 and BIO-15.6 are too vague to be meaningful and they do not describe ways the stated loss of burrowing owl habitat will be mitigated. Furthermore, they were not prepared with all available information. BIO-15.5 says there may be vacant land available that is suitable burrowing owl habitat elsewhere in Santa Clara County. There is vacant land available in the City of San Jose and Santa Clara County that could be managed to compensate for the loss of burrowing owl habitat. Under contract to the City of San Jose to prepare the City of San Jose Burrowing Owl Habitat Conservation Strategy and Implementation Plan (2000) I identified several hundred acres of city-

owned or county-owned land that could be managed as burrowing owl habitat without the cost of purchasing land or conservation easements. BIO-15.6 addresses off-site mitigation outside of the region. Given declines of burrowing owls in the San Francisco Bay and in Santa Clara Valley, it is unacceptable to mitigate the loss of 1,130 acres of habitat outside the region where that habitat loss occurred when there are opportunities to compensate for this loss in the city or county.

In summary, the mitigation measures in the DEIR for impacts to burrowing owl habitat are inadequate, some are actually irrelevant, they are dismissive and poorly conceived. Surely the preparers of the DEIR should avail themselves of the large body of information about burrowing owl management and present cost-effective opportunities to mitigate impacts to burrowing owls from development according to the Coyote Valley Specific Plan.

Sincerely,

A handwritten signature in black ink that reads "Jack Barclay". The signature is written in a cursive, flowing style with a large, sweeping initial "J".

Jack Barclay
Ornithologist/Vice-President